RSA 156/2006
BEFORE

THE HON'BLE MR.JUSTICE HN SARMA
THIS APPEAL HAVING BEEN HEARD ON THE 15th DAY OF NOVEMBER, 2006, THE COURT PASSE D THE FOLLOWING -

J U D G M E N T (ORAL)

This second appeal is filed challenging the appellate Judgment a nd Decree dated 2.5.2006 passed in Title Appeal No 10/2005 by the learned Civil Judge (Senior Division), Tinsukia. The learned appellate Court rejecting the app eal filed by the appellant/defendants confirmed the Judgment and Decree in Title Suit 27/2004 dated 28.6.2004.

2. It is submitted by Mr Sur that the summons of the suit not havin g been received by the defendant/appellant, he was prevented from appearing in t he suit and consequently, the ex-parte decree was passed by the learned trial C ourt.

It is further submitted that the plaintiff also has not been app lied being their case in the medical had however, and in the absence the decree is a nullity and this has raised the substantial questions of law.

I have perused the impugned Judgment and decree passed by the le arned trial Court and the learned appellate Court. The impugned Judgment disclos es that the learned appellate Court came to a perfect finding that on perusal of the records of the suit that the summon of the suit was served upon by the plai ntiff on the date next to the report of the Jari daskar on the summon issues of the defendants also issued that the Jamabandi/Jari daskar compensated the defend ants on 25.9.2004 and made having refused to accept the same, hence finding that not having altered by packs on the tar in presence of the legalities to arrive at such (a finding) the learned appellate Court. . . . . summon delay served upo n the defendants granted the defendant/appellant. In view of the facts and the s ubmissions, it is seen that there is no congeniality to . . regarding the merit of the claim of the plaintiff. The learned appellate Court duly considered the same and found vide Ext-1, Sale Deed, Ext-2, relevant copy of the Jamabandi . Th e revision pay receipt submitted by the plaintiff discloses that he purchased th e suit land on 22.6.76, his name was thereby mutated on 3.02.2003. 18.9.2002. It is further submitted that the defendants trespassed in the suit land illegally on 2.2.2004 accordingly, on such finding the Judgment and decree of the learned trial Court was confirmed. In view of the aforesaid facts and other substantial questions of law so raised by Mr Sur also falls to be baseless. Consequently, th is appeal stands dismissed.